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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Doc. No. AMS-FV-12-0002; FV12-929-1 FIR]

Cranberries Grown in States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Changing Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that revised the reporting requirements prescribed under the marketing order for cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York (order). The interim rule changed the dates covered by the third reporting period and the date by which the Handler Inventory Report (Form HIR) is due to the Committee. These changes help ensure the Committee has current and complete information available for its discussions during its annual August

meeting, while providing handlers sufficient time to submit their reports.

DATES: Effective [INSERT DATE 1 DAY AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (863) 324-3375, Fax: (863) 325-8793, or E-mail: Doris.Jamieson@ams.usda.gov or Christian.Nissen@ams.usda.gov.

Small businesses may obtain information on complying with this and other marketing order and agreement regulations by viewing a guide at the following website: [http://www.ams.usda.gov/ MarketingOrdersSmallBusinessGuide](http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide); or by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: Jeffrey.Smutny@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 929, both as amended (7 CFR part 929), regulating the handling of cranberries produced in the States of Massachusetts, Rhode Island,

Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

USDA is issuing this rule in conformance with Executive Order 12866.

The handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York is regulated by 7 CFR part 929. Prior to this change, reports were to be filed with the Committee by each handler not later than January 20, May 20, and August 20 of each fiscal period and by September 20 of the succeeding fiscal period. The Handler Inventory Report (Form HIR) previously showed the total quantity of cranberries acquired and the total quantity of cranberries and *Vaccinium oxycoccus* cranberries handled from the beginning of the reporting period indicated through December 31, April 30, July 31, and August 31, respectively. The reports also previously showed the total quantity of cranberries and *Vaccinium oxycoccus* cranberries

as well as cranberry products and *Vaccinium oxycoccus* cranberry products held by the handler on January 1, May 1, August 1, and August 31 of each fiscal period. However, having the report due by August 20 meant that this information, which is important for Committee discussions, may not be received prior to the Committee's annual August meeting. Therefore, this rule continues in effect the rule that changed the timeframes for the third reporting period by adjusting the due date from August 20 to July 20, the end date from July 31 to June 30 for cranberries acquired and handled, and the date for reporting inventory held from August 1 to June 30.

In an interim rule published in the **Federal Register** on August 30, 2012, and effective on August 31, 2012, (77 FR 52595, Doc. No. AMS-FV-12-0002, FV12-929-1 IR), § 929.105 was amended by changing the due date for the third reporting period from August 20 to July 20, adjusting the end date from July 31 to June 30 for cranberries acquired and handled, and changing the date for reporting inventory held from August 1 to June 30.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural

Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 55 handlers of cranberries who are subject to regulation under the marketing order and approximately 1,200 cranberry producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$7,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$750,000 (13 CFR 121.201).

Based on Committee data and information from the National Agricultural Statistics Service, the average annual f.o.b. price of cranberries during the 2010 season was approximately \$46.50 per barrel and total shipments were approximately 6.8 million barrels. As a percentage,

about 18 percent of the handlers shipped approximately 6.5 million barrels of cranberries. Using the average f.o.b. price and shipment data, about 82 percent of cranberry handlers could be considered small businesses under SBA's definition. In addition, based on production and producer prices and the total number of cranberry growers, the average grower revenue is less than \$750,000. Therefore, the majority of growers and handlers of cranberries may be considered small entities.

This rule continues in effect the action that revised the reporting requirements prescribed under the cranberry marketing order. This rule revises § 929.105 by changing the due date for the third reporting period from August 20 to July 20. To accommodate the new due date, this rule also adjusts the end date for the timeframe covered under the third period reporting from July 31 to June 30 for cranberries acquired and handled, and from August 1 to June 30 for reporting inventory held. These changes will help ensure the Committee has current and complete information available for discussion during its annual August meeting, while providing handlers sufficient time to submit their Handler Inventory Report (Form HIR). The authority for these actions is provided in § 929.62. These changes were

unanimously recommended by the Committee at a meeting on August 31, 2011.

It is not anticipated that this action will impose any additional costs on the industry nor will it change the reporting and recordkeeping burden on handlers. Having current and complete information available during the Committee's August meeting will assist the Committee when making decisions regarding the administration of the order. The benefits of this rule are not expected to be disproportionately greater or less for small handlers or growers than for large entities.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581-0189, Generic Fruit Crops. Because this revision changes neither the content of the Handler Inventory Report (Form HIR) nor its calculated burden, no changes in OMB requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large

cranberry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the cranberry industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the August 31, 2011, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

Comments on the interim rule were required to be received on or before October 29, 2012. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to:

<http://www.regulations.gov/#!documentDetail;D=AMS-FV-12-0002-0001>.

This action also affirms information contained in the interim rule concerning Executive Orders 12866 and 12988,

the Paperwork Reduction Act (44 U.S.C. Chapter 35), and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (77 FR 52595, August 30, 2012) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

PART 929 - CRANBERRIES GROWN IN STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Accordingly, the interim rule that amended 7 CFR part 929 and that was published at 77 FR 52595 on August 30, 2012, is adopted as a final rule, without change.

Dated: April 22, 2013

David R. Shipman
Administrator
Agricultural Marketing Service

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